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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,430	02/03/2004	Joe Heller	POL01.04DIV	3362

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Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
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EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/770,430

Applicant(s)

HELLER ET AL.

Examiner

David Dunn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

In a preliminary amendment claims 1-46 have been canceled and new claims 47-66 have been added.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 47-52 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not describe how the stabilizer bar is moved from a first to a second "position". The specification states that the stabilizer bar is in "an activated or deactivated state" (page 8, line 4) but does not describe it being in different positions. The specification fails to describe how the stabilizer bar would be moved from a first to a second position. For purposes of examination it is assumed that the stabilizer bar is in a first and second state or condition.

Note: Regarding claim 58, the "stabilizer bar system" is understood to include the actuator system (which includes the drive assembly).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 53-55, and 62-64 are rejected under 35 U.S.C. 102(b) as being anticipated by Hopper (EP 0984133).

Hopper discloses an actuator comprising: an output member (5); an electric motor (18) operatively coupled to the output member for moving the output member from a first position to a second position upon energization of the motor by a power source (22); and at least one electrical storage element (15) coupled to the motor, said electrical energy storage element being configured for energizing the motor to move the output member from the second position to the first position upon interruption of power from the power source to the motor (see column 5, lines 23-33). The output member is a plunger (valve stem element). The motor is coupled to the output member through a gear train (screw coupling 7 and splined sleeve 8) coupled to a drive shaft (stem 6).

5. Claims 53, 54, 62, and 63 are rejected under 35 U.S.C. 102(b) as being anticipated by Kompelien et al. (4,423,364).

Kompelien et al. disclose an actuator comprising: an output member (see column 2, lines 60-63); an electric motor (12) operatively coupled to the output member for moving the output

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member from a first position to a second position upon energization of the motor by a power source (24); and at least one electrical storage element (62) coupled to the motor, said electrical energy storage element being configured for energizing the motor to move the output member from the second position to the first position upon interruption of power from the power source to the motor (see column 2, lines 37-44). The output member is a plunger (damper, or valve).

6. Claims 58, 59, and 61 are rejected under 35 U.S.C. 102(e) as being anticipated by Ignatius et al. (6,637,757).

Ignatius et al. discloses a method for returning an actuator driven vehicle stabilizer bar system to a desired position upon interruption of electrical power to the actuator, said method comprising: storing electrical energy (178); and utilizing said energy to return the stabilizer bar system to the desired position upon said interruption of electrical power to the actuator (see column 6, lines 1-24). The energy is stored in a capacitor (see column 6, lines 21-22). The desired position is the engaged position (see column 4, lines 54-67).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 56, 57, 65, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopper in view of Fangio (5,744,876).

Hopper is discussed above and fails to show the storage element comprising a capacitor.

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Fangio teaches an actuator which uses a capacitive backup power source (40) for returning a mechanical device to a fail-safe position upon failure of a primary power source (see abstract). Fangio notes the use of a 0.99 farad capacitor.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hopper with the teachings of Fangio to use a capacitor as a backup power source, as a capacitor is a known equivalent of a source of power, in order to provide an inexpensive and reliable power source. Regarding claims 57 and 66, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a capacitor with a value of at least one Farad in order to provide a slightly increased capacitance.

9. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ignatius et al. alone.

Ignatius et al. is discussed above but is silent on the value of the capacitor.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ignatius et al. to provide the capacitor with a value of at least one Farad in order to provide sufficient power to the capacitor.

Allowable Subject Matter

10. Claims 47-52 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action.

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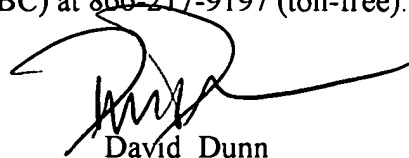
Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kincad et al. shows a stabilizer system of interest. Pascarella shows a stabilizer bar system of interest. Miller et al. shows a active suspension system for use upon interruption of power.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 703-305-0049. The examiner can normally be reached on Mon-Thur, alt. Fridays, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Dunn
Primary Examiner
Art Unit 3616